

Appl. No. 10/533,923  
Amdt. Dated February 1, 2007  
Reply to Office Action of November 1, 2006

## **REMARKS**

This application has been reviewed in light of the Office Action mailed on November 1, 2006. Applicants wish to thank the Examiner for the withdrawal of the finality of the previous Action. Claims 1, 3 to 7, 9 and 10 are currently pending in the present application. Claims 1 and 7 are amended herein. The amendments are supported by the specification and no new matter has been added by the amendments.

Claims 1, 3 to 7, 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,408,187 to Merriam (hereinafter “Merriam”) in view of U.S. Patent Application No. 2004/0192262 to Wu (hereinafter “Wu”). Applicants respectfully submit that the combination of Merriam and Wu does not render obvious independent claims 1 and 7 or claims 3 to 6, which depend from claim 1 or claims 9 to 10, which depend from claim 7.

It is an object of the present invention to provide a means for automatically informing a caller of what the owner of a mobile device is actually doing when a call is received. The subject invention thus performs an important safety function when the user is in a dangerous situation and cannot accept the call to communicate with the caller. This end is accomplished by retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information relating to what the user is doing at the time of the call. Accordingly, claim 1 is directed to a method of presenting an information item on a mobile device, the method comprising the steps of:

retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information relating to what the user is doing; determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to said mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to said first message.

Claim 7 is directed to a mobile device for presenting an information item relating to what a user of the mobile device is doing, said mobile device comprising: at least one identification reader for retrieving an identification of at least one of user gear and apparel; means for determining a mode reflecting at least one attribute of identified gear and apparel and means for optionally sending the mode with an identification of said mobile device to a service provider; means for determining and presenting the information item dependent on said mode; means for receiving a first message from a caller; means for determining a second message dependent on said mode, when said first message is received; and means for sending the second message to the caller as a response to said first message.

Merriam fails to disclose a means for retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information relating to what the user is doing and a means for determining a mode reflecting at least one

attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider. The Action improperly equates the belt disclosed by Merriam in column 1, line 56 to column 2, line 51 with the item of apparel as disclosed in claim 1 of the subject application. Applicants respectfully disagree with the Action's characterization of the belt as an apparel item, as claimed in claim 1. As disclosed in the subject specification on page 2, lines 5 to 13, IDs of gear and apparel provide a mobile device with information on the user's context or environment, such as the user's clothes, glasses, shoes, sports gear or music gear. This is possible since the gear and apparel each may have an identification code, such as a printed barcode, a printed pattern, a smart card, a magnet stripe, a transponder, a code tag, etc. Thus, one or more attributes may be comprised in the identification code. The identification code, with corresponding attributes, are then readable by the mobile device. In contrast, Merriam, directed to a mechanism for determining the behavior of a communications device based upon the likelihood that a user is within relatively close proximity to that device, merely discloses a means for determining that a communications device is attached to the belt of a user and hence is within close proximity to the user. The communications device of Merriam may be placed atop a belt. However, information is provided by the communications device, sitting atop the belt, not by the belt, as is claimed in claim 1. Thus, Merriam fails to disclose a means for retrieving an identification of at least one of user gear and apparel, as is claimed in claim 1.

The Action further cites Merriam for disclosing an item of apparel for providing the mobile device with information on the user's environment. However, Merriam fails

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to disclose an item of apparel for providing the mobile device with information relating to *what the user is doing*, as is now more clearly claimed in claim 1. Merriam simply discloses determining one or more environmental conditions of a current environment surrounding the communications device such as the amount of noise around the communications device or the amount of body heat near the communications device, for the purpose of determining the user's proximity to the communications device. However, Merriam fails to disclose an item of apparel for providing the mobile device with information relating to what the user is doing. As disclosed in the subject application on page 1, lines 15 to 20, the apparatus of claim 1 identifies to a caller when the user is in an awkward or in a dangerous situation, e.g. when the user is driving on the highway, so that the user does not have to respond to the call to communicate that information to the caller. The mobile device of claim 1 thereby provides a safety function not contemplated by Merriam.

The Action concedes that Merriam fails to disclose an apparatus for determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to said first message. The Action cites Wu for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message. However, the Applicants respectfully submit that Wu, like Merriam, fails to disclose a means for retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information relating to what the user is doing and a means for determining a mode reflecting at least one attribute of

identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider. Thus, Merriam and Wu, even when combined as suggested by the Action, still fail to anticipate all elements of claims 1 and 7.

Accordingly, for at least these reasons, independent claims 1 and 7 are clearly patentable over the cited combination.

Claims 3 to 6 depend directly or indirectly from claim 1 and provide further features thereto. Claims 9 and 10 depend from claim 7 and provide further distinguishing features thereto. Accordingly, claims 3 to 6 and 9 and 10 are clearly distinguishable over the combination of Merriam and Schmidt for at least the reasons discussed with respect to claims 1 and 7. By way of example, the method disclosed in claim 3 discloses a step of determining a second message comprising the steps of: sending the mode with an identification of said mobile device to a service provider; and determining the second message based on the received mode and the identification of said mobile device on the service provider. Claim 4 is directed to a step of: modifying at least one attribute of gear and apparel. Claim 5 is directed to the method of claim 1, wherein the mobile device is a personal digital assistant, palm top, cell phone or a mobile phone. Claim 6 is directed to a computer program product comprising program code means stored on a computer readable medium for performing the method of any one of claims 1 through 5 when the computer program is run on a computer. Claim 9 is directed to a mobile device having a means for sending the mode with an identification of said mobile device to a service provider, where said service provider determines the second message. Claim 10 is

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directed to a mobile device having a means for modifying at least one attribute of gear and apparel.

Accordingly, the rejections under 35 U.S.C. § 103(a) of claim 1 and claims 3 to 6, which depend therefrom and claim 7 and claims 9 and 10, which depend therefrom should be withdrawn and claims 1, 3 to 7 and 9 to 10 should be allowed.

### **Conclusion**

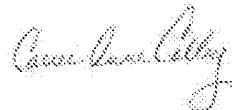
In view of the foregoing, Applicants respectfully submit that the specification, the drawings and all claims presented in this application are currently in condition for allowance. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

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Applicants' representative believes that this response is being filed in a timely manner. In the event that any extension and/or fee is required for the entry of this amendment the Commissioner is hereby authorized to charge said fee to Deposit Account No. 14-1270. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



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